

Retail Sale of Dogs, Cats and Rabbits
San Diego, California

Submitted by Companion Animal Protection Society, March 19, 2013

Findings

WHEREAS,

Existing state and federal laws regulate dog and cat breeders, as well as pet stores that sell dogs cats. These include the Animal Welfare Act ("AWA") (7 U.S.C. § 2131 *et seq.*), and several California laws: the Lockyer-Polanco-Farr Pet Protection Act (California Health & Safety Code section 122125 *et seq.*); the Polanco-Lockyer Pet Breeder Warranty Act (California Health & Safety Code section 122045 *et seq.*); and the Pet Store Animal Care Act (California Health & Safety Code section 122350 *et seq.*).

The Lockyer-Polanco-Farr Pet Protection Act requires pet dealers (i.e. retail sellers of more than fifty (50) dogs or cats in the previous year, not including animal shelters and humane societies) to have a permit, maintain certain health and safety standards for their animals, sell only healthy animals, and provide written spay-neuter, health, animal history and other information and disclosures to pet buyers. If after fifteen (15) days from purchase a dog or cat becomes ill due to an illness that existed at the time of sale, or if within one (1) year after purchase a dog or cat has a congenital or hereditary condition that adversely affects the health of the dog or cat, an owner is offered a refund, another puppy or kitten, or reimbursement of veterinary bills up to one hundred and fifty percent (150%) of the purchase price of the puppy or kitten.

The Pet Store Animal Care Act requires every pet store that sells live companion animals and fish to formulate a documented program consisting of routine care, preventative care, emergency care, disease control and prevention, veterinary treatment, and euthanasia.

The Polanco-Lockyer Pet Breeder Warranty Act offers protection similar to that of the Lockyer-Polanco-Farr Pet Protection Act, except that it applies only to dog breeders who sold or gave away either three litters or 20 dogs in the previous year.

Neither the federal government, nor the state legislature, has endeavored to directly regulate the retail sale of dogs, cats and rabbits ("companion animals") within the City of San Diego. Until the federal government or the state legislature decides to regulate the retail sale of companion animals, local governments are free to limit the types of procedures that may be performed within their jurisdiction for the protection of the public health, safety and general welfare.

The amended and other ordinances of the City of San Diego in this section are not intended to interfere with the import into, or export from, the City of San Diego of any companion animal for private possession.

The City of San Diego finds that, in a majority of cases, companion animals offered for retail sale are frequently raised in high volume commercial breeding facilities, known generically as "puppy mills," "catteries" and "rabbit mills." At such facilities, they are bred and raised in inhumane or undesirable conditions, which are frequently unsanitary and unhealthy for both humans and companions animals. Said companion animals endure tremendous suffering, disease and developmental problems as a result of being raised in unnatural and harmful developmental conditions, which include isolation in cramped and filthy cages with limited or no access to fresh air and light, or alternatively, in outdoor cages with little or no shelter from the elements, poor or no socialization, little exercise, insufficient contact with humans and other species, early litter separation and lack of or inadequate veterinary care.

The City of San Diego finds that many "purebred" and "designer" companion animals originally sold in retail pet stores within and without the City of San Diego, including popular breeds of puppies and cats, are

surrendered, abandoned by their owners or otherwise, end up in public and private animal shelters in San Diego County. As a result, San Diego has a surplus of companion animals. The 2011 - 2012 intake rate for these shelters was 25,723 dogs and 20,794 cats. These shelters euthanized approximately 8,201 dogs and 8,998 cats in 2011 - 2012. The data for rabbits is unavailable.

The City of San Diego finds that the shelter transfers many animals to private rescue groups who are themselves overburdened with a surplus of companion animals, and that the shelter euthanasia rate would be much higher without such transfers.

The City of San Diego finds that the influx into its shelter system of companion animals originally sold by retail pet stores imposes an unfair, disproportionate and unnecessary burden on the municipality in terms of cost and that the best interests of the City of San Diego would be served by reducing that cost through a ban on the retail sales of companion animals within the City of San Diego.

The City of San Diego finds that the influx into its shelter system of companion animals originally sold by retail pet stores results in the euthanasia of many companion animals which would otherwise not be necessary and that the best interests of the City of San Diego would be served by reducing the euthanasia rate at the shelter through a ban on the retail sales of companion animals within the City of San Diego.

Considering the wide array of alternatives for obtaining healthy and humanely bred and raised companion animals, and the surplus of same, the City of San Diego finds that the demand for companion animals does not justify the retail sale of companion animals within the City of San Diego.

The AWA requires, among other things, the licensing and inspection of commercial breeders, brokers and transporters who engage in the resale of dogs, cats and rabbits. These licensees are required to maintain minimum health, safety and welfare standards for animals in their care. United States Department of Agriculture ("USDA"), Animal and Plant Health and Inspection Services ("APHIS"), Animal Care is responsible for enforcing the AWA as it pertains to commercial dog, cat and rabbit brokers and breeders. The AWA does not apply to retail pet shops.

The Companion Animal Protection Society ("CAPS"), which has conducted undercover investigations at more than 1,000 commercial breeding facilities, most of them USDA-licensed, in sixteen states, has documented numerous AWA violations at dog breeding and brokering facilities. Based on these investigations, CAPS presented the assessment below (prior to the 2010 OIG report, see below) to the USDA:

"Although some improvements in the USDA's regulations are warranted, the larger problem is that the USDA is simply not enforcing them adequately. The USDA's rules are too often ignored, not only by those who are regulated, but also by the regulators themselves. ... Simply put either through omission, misfeasance, and (we fear), in some cases, malfeasance, the USDA is not getting the job done. ... We question whether the USDA is even institutionally capable of adequately implementing the puppy mill protection provisions of the AWA. Thus, we believe the appropriate congressional committees should conduct prompt and vigorous oversight of the USDA's management of this program."

In response to documentary evidence (reports with AWA violations, undercover footage and photographs) submitted by CAPS and a 2006 meeting with CAPS, the Office of Inspector General (OIG) conducted a two year audit of the Animal Care Program's actions and concluded that the Animal Care's (AC) enforcement process was ineffective against problematic dealers. The report, which came out in May 2010, outlines major deficiencies with APHIS' administration of AWA.

Multiple recommendations for improvements within AC program were made by the OIG. The USDA agreed with these recommendations and in 2011, released a plan outlining specific goals and tactics to improve its enforcement actions. It is still implementing these changes with the assistance of CAPS.

According to CAPS and the Humane Society of the United States (“HSUS”), American consumers purchase dogs and cats from pet stores believing that these animals are healthy and genetically sound. In reality, these animals often face an array of health problems, including communicable diseases and genetic disorders that present immediately after sale or that do not surface until several years later, all of which lead to costly veterinary bills and resulting in financial and emotional distress to consumers. Some of these animals die within days, weeks or months of purchase, causing emotional distress to consumers, especially those whose children immediately bonded with the new addition to the family.

Undercover investigations of retail pet stores nationwide have revealed that nearly half of the pet shops visited had animals that showed visible signs of illness, injury, or neglect, and nearly half of the stores also sold animals showing clear symptoms of psychological distress.

According to CAPS and HSUS, hundreds of thousands of dogs and cats in the United States are housed and bred at substandard breeding facilities known as “puppy mills” or “catteries,” that mass-produce animals for sale to the public; many of these animals are sold at retail pet stores. Because of the lack of proper animal husbandry practices at these facilities, animals born and raised in these facilities are more likely to have genetic disorders, communicable diseases, some that can lead to death, and lack adequate socialization, while breeding animals utilized there are subject to inhumane housing conditions and are indiscriminately disposed of when they reach the end of their profitable breeding cycle.

According to USDA inspection reports and photographs, some additional documented problems found at puppy mills include: (1) sanitation problems leading to infectious disease; (2) large numbers of animals overcrowded in cages; (3) lack of proper veterinary care for severe illnesses and injuries; (4) lack of protection from harsh weather conditions; and (5) lack of adequate food and water.

While “puppy mill” puppies and “cattery” kittens are being sold in pet stores throughout California, many thousands of animals are being euthanized at public and private California shelters. These animals could have found homes in other parts of the state or in other states via rescue organizations that coordinate to transport animals from one destination to another.

The homeless pet problem notwithstanding, there are many reputable dog and cat breeders who refuse to sell through pet stores and who work carefully to screen families and ensure good, lifelong matches.

Responsible dog and cat breeders do not sell their animals to pet stores. The United Kennel Club (UKC), the second oldest all-breed registry of purebred dog pedigrees in the United States and the second largest in the world, asks all of its member breeders to agree to a code of ethics which includes a pledge not to sell their puppies to pet stores. Similar pledges are included in codes of ethics for many breed clubs for individual breeds. Within the past year, there has been significant community activity within the City of San Diego and across the United States to convince local pet store operators to convert from puppy sales to a humane business model offering adoptable homeless dogs and cats to their customers.

Across the country, thousands of independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats. Many of these stores collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises.

Macerich Corporation, one of the largest mall companies in the country, and The Irvine Company, have both gone “humane.” This means that any Macerich or Irvine Company lessees selling live animals need to move out at the end of their leases unless they stop selling animals. The pet shops have the option of becoming humane adoption centers offering companion animals from shelters and rescues. Some malls and shopping centers already have adoption center stores.

A CAPS investigation of the largest pet shop in San Diego uncovered that this store obtains puppies from the largest USDA-licensed dog brokerage facility in the country. This facility, based in Missouri, ships out 1,000 to 2,000 puppies (and some kittens) a week to pet shops and Internet sellers throughout the United States, (including Puerto Rico, which has a very serious dog and cat overpopulation problem with many abandoned animals suffering on the streets), Canada, Mexico, South America, Japan, Spain and other overseas destinations. According to a November 2007 article in the Tulsa World, to which CAPS contributed investigative evidence of breeders in Oklahoma who sell to this broker, the brokerage facility buys and sells 90,000 puppies each year.

A CAPS 6-month undercover employment investigation of this brokerage facility, which does no breeding, documented a number of AWA violations including overcrowding, illness and death, hasty veterinary examinations, and non-veterinarians examining animals for Certificates of Veterinary Inspections (“CVIs”), also known as interstate health certificates.

A CAPS investigation of 50 USDA-licensed breeders selling to this broker disclosed that at least half of these breeders had serious and multiple violations of the AWA.

The owner of this pet shop began as an online puppy seller, selling puppies out his garage, which is illegal in the City of San Diego. CAPS began investigating his Internet business after receiving a number of consumer complaints. Three of these complaints were for puppies diagnosed with Parvovirus, two of which died. CAPS also received tips that this puppy seller was purchasing puppies from Mexico, which was confirmed by the Department of Animal Services. In 2012, he opened a pet shop in San Diego. A CAPS investigation of this pet shop uncovered numerous local and state code violations.

A CAPS investigation of the other pet shop in San Diego found that this store would not disclose the source of its puppies, which is a violation of state law.

While the City of San Diego recognizes that not all dogs and cats retailed in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a “puppy mill” or “cattery,” it is the City of San Diego’s belief that puppy mills and catteries continue to exist in part because of public demand and the sale of dogs and cats in pet stores.

The City of San Diego finds that the current state of retail sale of dogs and cats in pet stores in the City of San Diego is inconsistent with the City’s goal to be a community that cares about animal welfare.

The City of San Diego believes that eliminating the retail sale of companion animals in pet stores in the city will promote community awareness of animal welfare and, in turn, will foster a more humane environment in the city.

The City of San Diego believes that elimination of the retail sale of companion animals in pet stores in the city will also encourage pet consumers to adopt companion animals from shelters, thereby saving animals’ lives and reducing the cost to the public of sheltering animals.

The City of San Diego enacts this ordinance pursuant to the authority vested in the City of San Diego by Article ____, Section ____ of the California Constitution allowing a city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

Retail Sale of Dogs, Cats and Rabbits

a. *Definitions.* For purposes of this chapter, the following definitions shall apply:

1. “Animal shelter” means a municipal or related public animal shelter or duly incorporated nonprofit organization devoted to the rescue, care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

2. “Cat” means an animal of the Felidae family of the order Carnivora.

3. "Certificate of source" means a document declaring the source of the dog or cat sold or transferred by the pet store. The certificate shall include the name and address of the source of the dog or cat.

4. "Companion Animal" means dog, cat or rabbit.

5. "Dog" means an animal of the Canidae family of the order Carnivora.

6. "Existing pet store" means any pet store properly registered as a business entity with all appropriate authorities that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred cats or dogs in the City of San Diego on the effective date of this chapter, and complied with all applicable provisions of the City of San Diego Code.

7. "Pet store" means a retail establishment open to the public and engaging in the business of offering for sale and/or selling animals at retail.

8. "Pet store operator" means a person who owns or operates a pet store, or both.

9. "Rabbit" means an animal of the Leporidae family of the order Lagomorpha.

10. "Retail sale" includes display, offer for sale, offer for adoption, barter, auction, give away, or other transfer any cat or dog.

11. "Retail Pet store" means a retail establishment open to the public and engaging in the business of offering for sale and/or selling animals at retail.

12. "Roadside sale" means the sale of any companion animal by the side of the road, in a parking lot, in a flea market or upon any other such public thoroughfare or public common, to any member of the public and/or the act of engaging in the business of offering for sale and/or selling animals at retail outside of a Pet Store and/or Retail Pet Store. The term "Roadside sale" shall not be construed to mean the sale of one litter of puppies or kittens from a companion animal bred upon the premises of a private home once a year.

13. "Companion Animal" shall mean any animal ordinarily and customarily intended as a companion animal, or intended to be sold as such, including, but not limited to the following animals: dogs, cats, rabbits, and other such animals.

b. *Prohibition.* No pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of companion animals, including dogs or cats, in the City of San Diego on or after the effective date of the ordinance codified in this chapter. All Roadside Pet Sales shall be prohibited and subject to the provisions of this section, including inspections, violations and penalties and fines.

c. *Existing Pet Stores.* An existing pet store, properly registered as a business entity with all appropriate authorities, may continue to display, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer companion animals until six months from the date of this ordinance.

d. *Violations.* A violation of this Section may be prosecuted as a misdemeanor. A violation of this Section also may be enforced by means of an administrative citation and penalty in the amount of \$250 for the first violation, \$500 for the second violation and \$1,000 for the third violation.

e. *Exemptions.* This chapter does not apply to:

1. A person or establishment that sells, delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes of only animals that were bred and reared on the premises of the person or establishment;

2. A publicly operated animal control facility or animal shelter;

3. A private, charitable, nonprofit humane society or animal rescue organization; or

4. A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

e. *Adoption of Shelter and Rescue Animals.* Nothing in this chapter shall prevent a pet store or its owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet store for the purpose of adopting those animals to the public.

San Diego Pet Store Ordinance Fact Sheet



Banning the Retail Sale of Animals

Animal-friendly communities throughout the country are adopting humane standards towards the sale of dogs, cats and rabbits. These standards benefit the community by reducing the intake of homeless animals in shelters and specifically addressing the cruel puppy mill industry.

Cities in California that have Banned the Retail Sale of Animals

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| • Aliso Viejo | • Burbank | • Chula Vista | • Dana Point |
| • Glendale | • Hermosa Beach | • Huntington Beach | • Irvine |
| • Laguna Beach | • Los Angeles | • South Lake Tahoe | • West Hollywood |

Quotes from the Experts

"Puppy mills are nothing short of commercially-sanctioned animal cruelty. And nothing endorses this industry more than the sale of animals in pet stores. The San Diego Humane Society and SPCA has investigated, and prosecuted, numerous pet store owners in which horrific conditions existed, only compounding the suffering of animals who have already suffered enough."

– San Diego Humane Society and SPCA

"Since puppy mills, by their very definition, are operations that fail to meet the ASPCA's standards for responsible breeding, we are opposed to them."

– ASPCA

"The HSUS is opposed to the sale of dogs through pet stores and other commercial operations. In such situations, the desire for profit undermines proper care, seriously compromising the welfare of the animals. Furthermore, millions of animals are euthanized each year for lack of appropriate homes – a situation made worse by puppy mills."

– The Humane Society of the United States

The Alternative – A Humane Business Model

Successful companies like Petco and PetSmart have adopted a humane business model by refusing to sell dogs, cats and rabbits. These companies have formed mutually beneficial partnerships with local rescues and humane societies to encourage adoption of shelter animals. Many smaller pet stores have followed this trend and seen business improve as a result.

Supporters of the Ordinance

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| • ASPCA | • Humane Society of the United States |
| • Animal Defense Team | • In Defense of Animals |
| • Animal Protection and Rescue League | • San Diego Animal Advocates |
| • Best Friends Animal Society | • San Diego Humane Society and SPCA |
| • Companion Animal Protection Society | • San Diego Animal Welfare Coalition (SDAWC) |

